Skip to navigation Skip to content Skip to subnav



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Title 16: Education

Chapter 021: Maintenance Of Public Schools

(Cite as: 16 V.S.A. § 829)

- § 829. Prekindergarten education
 - (a) Definitions. As used in this section:
 - (1) "Prekindergarten child" means a child who, as of the date established by the district of residence for kindergarten eligibility, is three or four years of age or is five years of age but is not yet enrolled in kindergarten.
 - (2) "Prekindergarten education" means services designed to provide to prekindergarten children developmentally appropriate early development and learning experiences based on Vermont's early learning standards.
 - (3) "Prequalified private provider" means a private provider of prekindergarten education that is qualified pursuant to subsection (c) of this section.
 - (b) Access to publicly funded prekindergarten education.
 - (1) No fewer than ten hours per week of publicly funded prekindergarten education shall be available for 35 weeks annually to each prekindergarten child whom a parent or guardian wishes to enroll in an available, prequalified program operated by a public school or a private provider.

- (2) If a parent or guardian chooses to enroll a prekindergarten child in an available, prequalified program, then, pursuant to the parent or guardian's choice, the school district of residence shall:
- (A) pay tuition pursuant to subsections (d) and (h) of this section upon the request of the parent or guardian to:
 - (i) a prequalified private provider; or
- (ii) a public school located outside the district that operates a prekindergarten program that has been prequalified pursuant to subsection (c) of this section; or
 - (B) enroll the child in the prekindergarten education program that it operates.
- (3) If requested by the parent or guardian of a prekindergarten child, the school district of residence shall pay tuition to a prequalified program operated by a private provider or a public school in another district even if the district of residence operates a prekindergarten education program.
- (4) If the supply of prequalified private and public providers is insufficient to meet the demand for publicly funded prekindergarten education in any region of the State, nothing in this section shall be construed to require a district to begin or expand a program to satisfy that demand; but rather, in collaboration with the Agencies of Education and of Human Services, the local Building Bright Futures Council shall meet with school districts and private providers in the region to develop a regional plan to expand capacity.
- (c) Prequalification. Pursuant to rules jointly developed and overseen by the Secretaries of Education and of Human Services and adopted by the State Board pursuant to 3 V.S.A. chapter 25, the Agencies jointly may determine that a private or public provider of prekindergarten education is qualified for purposes of this section and include the provider in a publicly accessible database of prequalified providers. At a minimum, the rules shall define the process by which a provider applies for and maintains prequalification status, shall identify the minimum quality standards for prequalification, and shall include the following requirements:
- (1) A program of prekindergarten education, whether provided by a school district or a private provider, shall have received:
- (A) National Association for the Education of Young Children (NAEYC) accreditation; or

- (B) at least four stars in the Department for Children and Families' STARS system with a plan to get to at least two points in each of the five arenas; or
- (C) three stars in the STARS system if the provider has developed a plan, approved by the Commissioner for Children and Families and the Secretary of Education to achieve four or more stars with at least two points in each of the five arenas in no more than three years, and the provider has met intermediate milestones.
- (2) A licensed provider shall employ or contract for the services of at least one teacher who is licensed and endorsed in early childhood education or in early childhood special education under chapter 51 of this title.
- (3) A registered home provider that is not licensed and endorsed in early childhood education or early childhood special education shall receive regular, active supervision and training from a teacher who is licensed and endorsed in early childhood education or in early childhood special education under chapter 51 of this title.
 - (d) Tuition, budgets, and average daily membership.
- (1) On behalf of a resident prekindergarten child, a district shall pay tuition for prekindergarten education for ten hours per week for 35 weeks annually to a prequalified private provider or to a public school outside the district that is prequalified pursuant to subsection (c) of this section; provided, however, that the district shall pay tuition for weeks that are within the district's academic year. Tuition paid under this section shall be at a statewide rate, which may be adjusted regionally, that is established annually through a process jointly developed and implemented by the Agencies of Education and of Human Services. A district shall pay tuition upon:
- (A) receiving notice from the child's parent or guardian that the child is or will be admitted to the prekindergarten education program operated by the prequalified private provider or the other district; and
- (B) concurrent enrollment of the prekindergarten child in the district of residence for purposes of budgeting and determining average daily membership.
- (2) In addition to any direct costs of operating a prekindergarten education program, a district of residence shall include anticipated tuition payments and any administrative, quality assurance, quality improvement, transition planning, or other prekindergarten-related costs in its annual budget presented to the voters.
- (3) Pursuant to subdivision 4001(1)(C) of this title, the district of residence may include within its average daily membership any prekindergarten child for whom it has

provided prekindergarten education or on whose behalf it has paid tuition pursuant to

- (4) A prequalified private provider may receive additional payment directly from the parent or guardian only for prekindergarten education in excess of the hours paid for by the district pursuant to this section or for child care services, or both. The provider is not bound by the statewide rate established in this subsection when determining the rates it will charge the parent or guardian.
- (e) Rules. The Secretary of Education and the Commissioner for Children and Families shall jointly develop and agree to rules and present them to the State Board for adoption under 3 V.S.A. chapter 25 as follows:
- (1) To permit private providers that are not prequalified pursuant to subsection (c) of this section to create new or continue existing partnerships with school districts through which the school district provides supports that enable the provider to fulfill the requirements of subdivision (c)(2) or (3), and through which the district may or may not make in-kind payments as a component of the statewide tuition established under this section.
- (2) To authorize a district to begin or expand a school-based prekindergarten education program only upon prior approval obtained through a process jointly overseen by the Secretaries of Education and of Human Services, which shall be based upon analysis of the number of prekindergarten children residing in the district and the availability of enrollment opportunities with prequalified private providers in the region. Where the data are not clear or there are other complex considerations, the Secretaries may choose to conduct a community needs assessment.
- (3) To require that the school district provides opportunities for effective parental participation in the prekindergarten education program.
 - (4) To establish a process by which:
- (A) a parent or guardian notifies the district that the prekindergarten child is or will be admitted to a prekindergarten education program not operated by the district and concurrently enrolls the child in the district pursuant to subdivision (d)(1) of this section;

(B) a district:

(i) pays tuition pursuant to a schedule that does not inhibit the ability of a parent or guardian to enroll a prekindergarten child in a prekindergarten education

program or the ability of a prequalified private provider to maintain financial stability; and

- (ii) enters into an agreement with any provider to which it will pay tuition regarding quality assurance, transition, and any other matters; and
- (C) a provider that has received tuition payments under this section on behalf of a prekindergarten child notifies a district that the child is no longer enrolled.
- (5) To establish a process to calculate an annual statewide tuition rate that is based upon the actual cost of delivering ten hours per week of prekindergarten education that meets all established quality standards and to allow for regional adjustments to the rate.

(6) [Repealed.]

- (7) To require a district to include identifiable costs for prekindergarten programs and essential early education services in its annual budgets and reports to the community.
- (8) To require a district to report to the Agency of Education annual expenditures made in support of prekindergarten education, with distinct figures provided for expenditures made from the General Fund, from the Education Fund, and from all other sources, which shall be specified.
 - (9) To provide an administrative process for
- (A) a parent, guardian, or provider to challenge an action of a school district or the State when the complainant believes that the district or State is in violation of State statute or rules regarding prekindergarten education; and
- (B) a school district to challenge an action of a provider or the State when the district believes that the provider or the State is in violation of State statute or rules regarding prekindergarten education.
- (10) To establish a system by which the Agency of Education and Department for Children and Families shall jointly monitor and evaluate prekindergarten education programs to promote optimal results for children that support the relevant population-level outcomes set forth in 3 V.S.A. § 2311 and to collect data that will inform future decisions. The Agency and Department shall be required to report annually to the General Assembly in January. At a minimum, the system shall monitor and evaluate:
- (A) programmatic details, including the number of children served, the number of private and public programs operated, and the public financial investment made to ensure access to quality prekindergarten education;

- (B) the quality of public and private prekindergarten education programs and efforts to ensure continuous quality improvements through mentoring, training, technical assistance, and otherwise; and
- (C) the results for children, including school readiness and proficiency in numeracy and literacy.
- (11) To establish a process for documenting the progress of children enrolled in prekindergarten education programs and to require public and private providers to use the process to:
 - (A) help individualize instruction and improve program practice; and
- (B) collect and report child progress data to the Secretary of Education on ar annual basis.
 - (f) Other provisions of law. Section 836 of this title shall not apply to this section
- (g) Limitations. Nothing in this section shall be construed to permit or require payment of public funds to a private provider of prekindergarten education in violation of Chapter I, Article 3 of the Vermont Constitution or in violation of the Establishment Clause of the U.S. Constitution.
 - (h) Geographic limitations.
- (1) Notwithstanding the requirement that a district pay tuition to any prequalified public or private provider in the State, a school board may choose to limit the geographic boundaries within which the district shall pay tuition by paying tuition solely to those prequalified providers in which parents and guardians choose to enroll resident prekindergarten children that are located within the district's "prekindergarten region" as determined in subdivision (2) of this subsection.
- (2) For purposes of this subsection, upon application from the school board, a district's prekindergarten region shall be determined jointly by the Agencies of Education and of Human Services in consultation with the school board, private providers of prekindergarten education, parents and guardians of prekindergarten children, and other interested parties pursuant to a process adopted by rule under subsection (e) of this section. A prekindergarten region:
 - (A) shall not be smaller than the geographic boundaries of the school district;
- (B) shall be based in part upon the estimated number of prekindergarten children residing in the district and in surrounding districts, the availability of prequalified private

and public providers of prekindergarten education, commuting patterns, and other region-specific criteria; and

- (C) shall be designed to support existing partnerships between the school district and private providers of prekindergarten education.
- (3) If a school board chooses to pay tuition to providers solely within its prekindergarten region, and if a resident prekindergarten child is unable to access publicly funded prekindergarten education within that region, then the child's parent or guardian may request and in its discretion the district may pay tuition at the statewide rate for a prekindergarten education program operated by a prequalified provider located outside the prekindergarten region.
- (4) Except for the narrow exception permitting a school board to limit geographic boundaries under subdivision (1) of this subsection, all other provisions of this section and related rules shall continue to apply. (Added 2007, No. 62, § 3; amended 2007, No. 132 (Adj. Sess.), § 1; 2011, No. 129 (Adj. Sess.), § 9; 2013, No. 92 (Adj. Sess.), § 100, eff. Feb. 14, 2014; 2013, No. 166 (Adj. Sess.), § 1, eff. May 28, 2014; 2015, No. 11, § 13; 2017, No. 49, § 45, eff. May 23, 2017.)

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- Acts & Resolves
- Acts Affecting VSA Sections

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- Court Rules at Lexis/Nexis
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